

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

DENEEN HENDERSON-SHOWERS o/b/o
ALLIE R. HENDERSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:21-cv-325-DPJ-FKB

IPI PROPERTIES 16, LLC AND
JOHN DOES 1-20

DEFENDANTS

NOTICE OF REMOVAL

TO: Harry M. McCumber Esq (MSB 10632)
Morgan & Morgan PLLC
4450 Old Canton Road
Suite 200
Jackson, MS 39211

Zack Wallace, Clerk
Hinds County Circuit Court
Post Office Box 327
Jackson, MS 39205

Pursuant to 28 U.S.C. §§ 1332(a), 1441 and 1446, IPI Properties 16, LLC (“Defendant” or “IPI Properties”) gives Notice of Removal of this civil action from the Circuit Court of Hinds County, Mississippi, to the United States District Court for the Southern District of Mississippi, Northern Division. In support of this removal, Defendant respectfully submits as follows:

1. The Plaintiff filed her Complaint on or about March 29, 2021, in the Circuit Court of Hinds County, Mississippi (“the State Court Action”). The Complaint was docketed in that court as *Deneen Henderson-Showers o/b/o Allie R. Henderson v. IPI Properties 16, LLC*, 21-176. *Exhibit A – Complaint*.

2. Plaintiff alleges Allie Henderson was a tenant on Defendant’s property, a senior living apartment complex, located at 230 Beasley Road, Jackson, Mississippi,

when she tripped and fell on July 29, 2019. *Exhibit A at ¶7, 9*. Plaintiff alleges Henderson fractured her femur. *Id. at ¶9*.

3. The United States District Court for the Southern District of Mississippi, Northern Division, embraces the county in which the State Court Action is now pending. Therefore, removal is proper to this Court pursuant to 28 U.S.C. §§ 104(b)(1) and 1441(a).

4. As set forth below, this Court has original subject matter jurisdiction of this civil action pursuant to 28 U.S.C. §§ 1332 and 1441 because there is complete diversity of citizenship between Plaintiff and all properly joined Defendants, and the amount in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.

Removal is Based on Diversity Jurisdiction

3. Citizenship of the parties is determined as of the time the Complaint is filed. *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 571 (2004).

4. According to the Complaint, Plaintiff Allie Henderson is a resident citizen of the State of Mississippi. *Exhibit A at ¶1*. Upon information and belief, Deneen Henderson-Showers is also a resident citizen of the State of Mississippi.

5. IPI Properties 16, LLC, is a limited liability company. *Exhibit B – Declaration of Kumar Koneru*. For the purposes of diversity jurisdiction, the citizenship of an LLC is determined by the citizenship of each of its members. *Settlement Funding, L.L.C. v. Rapid Settlements, Ltd.*, 851 F.3d 530, 536 (5th Cir. 2017).

6. IPI Properties has two members – Kumar Koneru and The Kumar Koneru Separate Property Trust. *Exhibit B – Declaration of Kumar Koneru*.

7. Kumar Koneru is a resident citizen of the State of California. *Exhibit B – Declaration of Kumar Koneru.*

8. The citizenship of a trust is either determined by 1) the citizenship of the trustee(s) or 2) the citizenship of all of the trust shareholders depending on the situation. *See, e.g., Bynane v. Bank of New York Mellon for CWMBS, Incorporated Asset-Backed Certificate Series 2006-24, Bank of America, N.A, Mortgage Electronic Registration Systems, Inc.*, 866 F. 3d 351, 357-58 (5th Cir. 2017) and *Americold Realty Tr. v. Conagra Foods, Inc.*, 577 U.S. 378 (2016).

9. The trustee is Kumar Koneru, who is a resident citizen of the State of California. *Exhibit B – Declaration of Kumar Koneru.*

10. The only trust beneficiaries/shareholders are Koneru's two sons. *Id.* Both are resident citizens of the State of California. *Id.*

11. Because Plaintiff and all properly joined Defendants are citizens of different States, in accordance with 28 U.S.C. §1332, complete diversity is satisfied.

Amount in Controversy

12. The amount in controversy exceeds \$75,000.00, exclusive of interests and costs. The Plaintiff does not specify an amount of damages in the Complaint. However, it is facially apparent that the amount in controversy exceeds \$75,000.00. *See, e.g., Allen v. R&H Oil & Gas Co.*, 63 F. 3d 1326 (5th Cir. 1996).

13. Plaintiff contends Henderson suffered serious injuries, including a broken femur that required surgery. *Exhibit A* at ¶9, 14. Plaintiff contends Henderson has dementia. *Id.* at ¶9 Plaintiff seeks past, present, and future physical pain and suffering;

past, present, and future emotional pain and suffering; and past, present, and future medical expenses as well as other damages. *Id.* at ¶14.

14. As it is facially apparent that the amount in controversy exceeds \$75,000.00, exclusive of interests and costs, this requirement for diversity jurisdiction is met. *See* 28 U.S.C. §1332.

15. Plaintiff has not provided Henderson's medical records or bills.

16. As such, Defendant has reviewed Mississippi verdicts related to fractured femurs.

17. According to the Mississippi Jury Verdict Reporter, a plaintiff in a Warren County case fractured her femur near her hip in a fall from a chair at a casino. The medical expenses alone were approximately \$46,000.00. A defense verdict was returned on liability. *See Jackson v. Ameristar Casino Vicksburg*, 17-107, Circuit Court of Warren County. *Exhibit C – Compilation of Amount in Controversy Documentation*.

18. In *Zelaya v. Creative Kids of Clinton*, 10-438, a 5-month-old suffered a broken femur at a day care. The medical expenses were only \$5,400.00, but a Hinds County Jury awarded \$130,000.00, with approximately \$125,000.00 in pain and suffering. *Exhibit C – Compilation of Amount in Controversy Documentation*.

19. In *Hubbard v. White*, 09-56, the plaintiff suffered a double fracture to her femur. The medical expenses were \$101,000.00 for the treatment for this injury. The Yazoo County jury awarded over \$1,000,000.00 to the plaintiff. Admittedly, there were other injuries involved too. *Exhibit C – Compilation of Amount in Controversy Documentation*.

20. In the *Estate of Ludie Smith v. Delta Transportation Services, LLC*, 2016-0075CI, a Washington County Jury awarded \$244,232.04 to the Estate of Smith. Smith allegedly fractured her femur in a fall.¹ *Exhibit C – Compilation of Amount in Controversy Documentation.*

Timeliness of Removal and Other Procedural Requirements

21. The Complaint was filed on March 29, 2021, and IPI was served with process on April 26, 2021.

22. This Notice of Removal, therefore, is timely filed under 28 U.S.C. §1446(b)(1) within thirty (30) days after the receipt of the initial pleading IPI from which Defendant could ascertain that the case is properly removable in accordance with the provisions of 28 U.S.C. §1446(b).

23. In accordance with 28 U.S.C. § 1447(b) and L.U.Civ.R. 5(b), Defendant will submit a copy of the state court pleadings no later than 14 days from the date of removal.

24. Contemporaneously with the filing of this notice of removal, Defendant is filing a copy of the same with the Clerk of the Circuit Court of Hinds County, Mississippi, in accordance with 28 U.S.C. § 1446(d). Additionally, written notice of the removal is being given to all parties. *Id.*

WHEREFORE, Defendant IPI Properties 16, LLC respectfully requests that this Court proceed with the handling of this case as if it had been originally filed herein. Defendant also respectfully requests such other relief as this Court deems just.

THIS the 12th day of May, 2021.

¹ Undersigned counsel is all too familiar with this case as he was involved in the trial.

Respectfully submitted,

PERRIER & LACOSTE

/s/ Eric R. Price

ERIC R. PRICE (MSB #102274)

Perrier & Lacoste, LLC

One Canal Place

365 Canal Street, Suite 2550

New Orleans, Louisiana 70130

Phone: 504-212-8870

Fax: 504-212-7292

Email: eprice@perrierlacoste.com

**ATTORNEYS FOR DEFENDANT,
IPI PROPERTIES 16, LLC**

CERTIFICATE OF SERVICE

I, the undersigned attorney for Defendant, IPI Properties 16, LLC, hereby certify that I have this day filed the above and foregoing Notice of Removal via ECF and upon the filing of same a true and correct copy was served via electronic filing to the following interested parties:

Harry M McCumber Esq (MSB 10632)
Morgan & Morgan PLLC
4450 Old Canton Road
Suite 200
Jackson, MS 39211

Zack Wallace, Clerk
Hinds County Circuit Court
Post Office Box 327
Jackson, MS 39205

THIS the 12th day of May, 2021.

s/ Eric R. Price
ERIC R. PRICE (MSB # 102274)